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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/139,777	08/25/1998	ROBERT A. KNEE	UV-58	5715

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EXAMINER
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KOENIG, ANDREW Y

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 09/25/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/139,777

Applicant(s)

KNEE ET AL.

Examiner

Andrew Y Koenig

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2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8, 9, 11 and 38-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8, 9, 11, 38-82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 19 June 2003 have been fully considered but they are not persuasive.
2. Regarding claim 8, the applicant argues that Herz does not teach "weight value" applied to "user inputs." The examiner disagrees; Herz teaches comparing a projected user profile and attempting to predict what the user wants to watch. When the user selects a program, the system compares the difference of the projected suggested program to the selected program to generate a difference (col. 32, 1-24). Accordingly, the user input is used to calculate the difference, which is then used to adjust the user profile.
3. Regarding claims 11 and 41, the applicant argues that Herz fails to teach a decay function. Whereas the examiner notes that the decay function of Herz is different from that of the instant invention, the claim merely recites "a decay procedure to refresh the user demographic information," which is given the broadest reasonable interpretation in the art. Decay is defined as a decrease gradually in magnitude, which is performed by Herz in the averaging scheme. Consequently the stabilization process of Herz reads on the claimed invention (col. 14, ll. 1-14, col. 15, ll. 2-9).
4. Regarding claim 40, the applicant argues that Herz fails to show "using a separate period for each demographic category, wherein the period for each category is representative of how much user input is needed before the user value for that category is deemed to be reflective of the given user." The examiner disagrees; Herz teaches

that at least 3 runs before the profiles are good enough to make constant predictions (col. 33, ll. 9-12). Accordingly, Herz teaches using a period of time to calculate and permit the profiles to stabilize in order to start predictions. Therefore, the examiner asserts that the combination is Sitnik, Alexander, Wachob, and Herz teaches using a separate period for each category is representative of how much user input is needed before the user value for that category is deemed to be reflective of the given user.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims ??? are rejected under 35 U.S.C. 103(a) as being unpatentable over ???.

7. Claims 8, 11, 40, 41 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,160,570 to Sitnik (Sitnik), U.S. Patent 6,177,931 to Alexander et al. (Alexander) and U.S. Patent 5,155,591 to Wachob (Wachob) in view of U.S. Patent 6,020,883 to Herz et al. (Herz).

Regarding claims 8, 47, 53, and 59, Sitnik teaches a system and method for targeting advertisements to a user of an interactive television program guide. Sitnik shows a receiver, which can receive both program guide information (col. 7, lines 25-27) and advertisements with preselected values for demographic categories (col. 8-9, lines 65-4). Sitnik is silent on advertisements for the program guide. Alexander teaches

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displaying an advertisement within the program guide (fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by using advertisements for the program guide as taught by Alexander in order to provide an improved opportunity for advertisers to reach the viewer (Alexander: Abstract). Sitnik is silent on using a survey to gather demographic information.

Wachob teaches gathering demographic information via a survey (col. 1, ll. 56-64; col. 6, ll. 15-17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by implementing a survey to gather demographic information as taught by Wachob in order to enable advertisements to be efficiently matched to their appropriate demographic category. Sitnik also shows a user input receiver (col. 7, lines 47-57), and a microprocessor, which utilizes said user input to determine user values for the demographic categories (col. 6, lines 22-28). Sitnik teaches a memory for storing user values (col. 6, 39-43). On column 2, line 56-65, Sitnik teaches a receiver that selects one advertisement based on a comparison.

Sitnik does not teach user values with weight values indicative of the effect said user input has on the user values for the demographic categories. Herz (col. 31-32, lines 63-10) discloses a weight value ( $\Delta$ ) that further defines the user value. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sitnik by using weight values to further customize the value of the user to the actual user.

Regarding claims 11, 41, 65, 69, 73, 80, 81, and 82, Sitnik teaches a system and method for targeting advertisements to a user of an interactive television program guide.

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Sitnik shows a receiver, which can receive both program guide information (col. 7, lines 25-27) and advertisements with preselected values for demographic categories (col. 8-9, lines 65-4). Sitnik is silent on advertisements for the program guide. Alexander teaches displaying an advertisement within the program guide (fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by using advertisements for the program guide as taught by Alexander in order to provide an improved opportunity for advertisers to reach the viewer (Alexander: Abstract). Sitnik is silent on using a survey to gather demographic information. Wachob teaches gathering demographic information via a survey (col. 1, ll. 56-64; col. 6, ll. 15-17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by implementing a survey to gather demographic information as taught by Wachob in order to enable advertisements to be efficiently matched to their appropriate demographic category. Sitnik also shows a user input receiver (col. 7, lines 47-57), and a microprocessor, which utilizes said user input to determine user values for the demographic categories (col. 6, lines 22-28). Sitnik teaches a memory for storing user values (col. 6, 39-43). On column 2, line 56-65, Sitnik teaches a receiver that selects one advertisement based on a comparison. Sitnik does not teach a decay procedure to refresh user values, however such is taught by Herz (col. 14, lines 4-10). A decay procedure is a refresh cycle that updates the value of the user after an amount of time. It would have been obvious to one having ordinary skill in the art to dynamically adjust the user values over a given period of time

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to customize the advertisements accordingly in order to provide current up to date demographic data.

Regarding claims 9, 66, 70, and 74, Sitnik provides default values for the demographic categories (col. 8, lines 3-6).

Regarding claims 38, 67, 71, and 75, Sitnik teaches using income information and gender information (col. 7, ll. 47-55).

Regarding claims 39, 68, 72, and 76, Sitnik teaches a profile using income information and gender information (col. 7, ll. 47-55), which is information not program guide-based.

Regarding claims 40, 77, 78, and 79, Sitnik teaches a system and method for targeting advertisements to a user of an interactive television program guide. Sitnik shows a receiver, which can receive both program guide information (col. 7, lines 25-27) and advertisements with preselected values for demographic categories (col. 8-9, lines 65-4). Sitnik is silent on advertisements for the program guide. Alexander teaches displaying an advertisement within the program guide (fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by using advertisements for the program guide as taught by Alexander in order to provide an improved opportunity for advertisers to reach the viewer (Alexander: Abstract). Sitnik is silent on using a survey to gather demographic information. Wachob teaches gathering demographic information via a survey (col. 1, ll. 56-64; col. 6, ll. 15-17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by implementing a survey to gather

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demographic information as taught by Wachob in order to enable advertisements to be efficiently matched to their appropriate demographic category. Sitnik also shows a user input receiver (col. 7, lines 47-57), and a microprocessor, which utilizes said user input to determine user values for the demographic categories (col. 6, lines 22-28). Sitnik teaches a memory for storing user values (col. 6, 39-43). On column 2, line 56-65, Sitnik teaches a receiver that selects one advertisement based on a comparison. Herz teaches predicting a program and if the user watches the program then the profile is valid (col. 26-27, ll. 52-7), which reads on how much user input is needed before the user value for that category is reflective of the given user. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by gathering user input to determine a reflective profile as taught by Herz in order to maintain an accurate profile for the user. Sitnik is silent on a time period reflecting when a category can be used. Herz teaches predicting a program and if the user watches the program then the profile is valid (col. 26-27, ll. 52-7), which reads on how much user input is needed before the user value for that category is reflective of the given user. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by gathering user input to determine a reflective profile as taught by Herz in order to maintain an accurate profile for the user.

Regarding claims 44, 50, 56, and 62, Sitnik provides default values for the demographic categories (col. 8, lines 3-6).

Regarding claims 45, 51, 57, and 63, Sitnik provides a period for determining user values for demographic categories (col. 8, lines 8-13).



Regarding claims 46, 52, 58, and 64, Sitnik does not teach a decay procedure to refresh user values, however such is taught by Herz (col. 14, lines 4-10). A decay procedure is a refresh cycle that updates the value of the user after an amount of time. It would have been obvious to one having ordinary skill in the art to dynamically adjust the user values over a given period of time to customize the advertisements accordingly in order to provide current up to date demographic data.

8. Claims 42, 43, 48, 49, 54, 55, 60, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,160,570 to Sitnik (Sitnik), U.S. Patent 6,177,931 to Alexander et al. (Alexander), U.S. Patent 5,155,591 to Wachob (Wachob), and U.S. Patent 6,020,883 to Herz et al. (Herz) in view of U.S. Patent 6,286,140 to Ivanyi (Ivanyi).

Regarding claims 42, 48, 54, and 60, Sitnik teaches monitoring viewing habits in order to adjust the user profile (col. 7, ll. 41-57). However, Sitnik fails to teach using preselected demographic data associated with each television channel and program. Herz teaches the determination of user values where the program is indicative of how well the user fits said demographic category (Herz, 21:63-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by using a demographic category associated with a program as taught by Hite in order to maintain an accurate user profile. Herz teaches monitoring programs but fails to teach monitoring channels. Ivanyi teaches monitoring a channel (col. 2, ll. 49-65). Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Sitnik by monitoring a channel in order to gather information about the user thereby collecting more information regarding the user to enhance the quality of the user profile.

Regarding claim 43, 49, 55, and 61, Sitnik fails to disclose determining user values by channel and program demographic categories, and Herz teaches the determination of user values where the television program has a predetermined value of how well the user fits said demographic category (Herz, 21:63-67). Therefore, it would have been obvious to one of ordinary skill in the art to modify Sitnik by adding at least one channel and program demographic category as taught by Herz in order to improve the accuracy of the demographic information. Herz teaches gathering information for a profile but fails to specify a channel. Ivanyi teaches monitoring of channel information (col. 2, ll. 49-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Herz and Sitnik by gathering information from the channel as taught by Ivanyi in order to generate a user profile.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

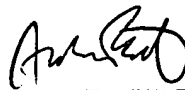
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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y Koenig whose telephone number is (703) 306-0399. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



ANDREW FAILE

SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

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